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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-seventh session

SUMMARY RECORD OF THE 705th MEETING*

Held at the Palais Wilson, Geneva,
on Monday, 28 May 2001, at 10 a.m.

Chairperson: Mr. DOEK

CONTENTS

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of the Democratic Republic of the Congo

* No summary records were issued for the 703rd and 704th meetings.

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The meeting was called to order at 10.40 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of the Democratic Republic of the Congo (CRC/C/3/Add.57; CRC/C/Q/DRC/1; CRC/C/1 (Future)17)

1. At the invitation of the Chairperson, the members of the delegation of the Democratic Republic of the Congo took places at the Committee table.

2. Ms. EBAMBA BOBOTO (Democratic Republic of the Congo) said that her country had ratified the Convention on the Rights of the Child shortly after the World Summit for Children in 1990. That same year, a long period of turbulence had begun in the Democratic Republic of the Congo, marked by the collapse of the State, the destruction of social and community infrastructures, economic stagnation, and such social ills as riots, looting and mutiny within the army. All social and development sectors had been affected, in particular the family.

3. The social policy adopted by the new regime that had taken power following the revolution of 1997 sought to improve the situation of children. The new Government had endorsed the report of the former regime, and had submitted an additional report describing the new measures it had taken on behalf of children. At the institutional level, the question of children was the responsibility of the General Secretariat for the Family, within the Ministry of Social Affairs. The National Council for Children and the Provincial Councils for Children had been established, composed of representatives of Government, churches and non-governmental organizations (NGOs), with the task of developing a national policy for the promotion of the well-being of children and of formulating an annual ad hoc report to assess progress made.

4. In 1997, the Government had established a three-year national reconstruction plan, the goal of which had been to rebuild basic social infrastructure and to improve the health and education sectors. With the support of the United Nations Children's Fund (UNICEF) it had instituted a programme for the survival, development and participation of children, which aimed to eradicate polio, eliminate health problems caused by a lack of iodine and Vitamin A, promote the health and development of adolescents and young people, increase access to schools, reduce the school drop-out rate, strengthen respect for the rights of children in general and ensure the school enrolment of at least 75 per cent of Congolese children. The Government had undertaken to eradicate polio in children through age 5, and had initiated National Vaccination Days, which would be held in cooperation with the Congo, Gabon, the Central African Republic and Angola.

5. Although in the midst of open war, the Government of the Democratic Republic of the Congo had undertaken the demobilization and social reintegration of child soldiers, and the President of the Republic had signed a decree to that effect in June 2000. In addition, it had convened, at Kinshasa in 1999, the Pan-African Forum on Child Soldiers, in which a number of countries had actively participated. The original count of 20,000 child soldiers had subsequently

decreased by three quarters; firstly, because many of those children had reached the age of 18, and secondly, because protection measures had been taken forbidding the enrolment of minors in the armed forces. In that regard, the Government had established an inter-ministerial body responsible for coordinating demobilization and reintegration activities.

6. With the support of UNICEF, the Government of the Democratic Republic of the Congo had launched a national survey on the situation of children and women, which would provide useful statistics on their evolving circumstances and make it possible to measure progress made in the implementation of the recommendations of the World Summit for Children. The results of that survey would be published by the end of 2001.

7. The war had caused massive population flows, which included more than a million displaced children and child refugees. Consequently, the Government had created the General Commission on Reintegration, which was responsible for the settlement and reintegration of displaced persons, including children, and had set up welcome centres and shelters. In collaboration with local NGOs and with UNICEF, it had also launched a remedial education programme and a food assistance and recovery programme for vulnerable persons, including persons displaced by the war. Schools had been built for refugee children from Angola and the Congo. The Government had also established social structures for the reintegration of 1,800 children, admittedly a limited number.

8. The Government was making preparations for a national conference on human rights, to be held at Kinshasa in 2001, which would analyse the situation of human rights in the Democratic Republic of the Congo, formulate recommendations and draw up a plan of action, which would not neglect the rights of the child.

9. The efforts of the Government on behalf of children would be far more significant were it not for the war of aggression that had been waged against the Democratic Republic of the Congo for almost three years by the regular armies of Rwanda, Burundi and Uganda, in flagrant violation of the Charter of the United Nations and of General Assembly resolutions 1234 and 1304, which called for the withdrawal of the aggressors. That war had exacerbated poverty, significantly dismantled the productive sector, and caused the deaths of more than 2.5 million people. Some had been killed by bullets, others had been buried alive, and still others had died of AIDS, disease and even hunger. Many small children had been orphaned. Children were, in fact, the primary victims of that ignoble, unjust war. Living in occupied territories, they had no access to education or health care, and had been stripped of their rights, including the right to life. In April 2001, at Mwenga, South Kivu, seven pregnant women had been brutally killed and dumped in the river.

10. According to estimates taken in late 1999, 1.1 million adults and children were living with HIV/AIDS, as a result of the criminal, barbaric and inhumane practice of collective rape perpetrated by the aggressors. The numbers of orphans associated with that illness had been estimated at 800,000 children, of which 450,000 remained alive. Other illnesses had re-emerged, including malaria, which was taking 500,000 lives per year, in particular among children under the age of 5.

11. The war had indeed violated and silenced children's rights, and had exhausted all those who had resolutely undertaken to promote the Convention. Her delegation called on the peoples of the world to urge the aggressors to withdraw, with a view to the rapid and effective implementation of the Convention. The Government was doing its utmost to restore peace, and had authorized the deployment of observers from the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) throughout the territory, although several pockets of resistance had emerged in the occupied zones. It had recently signed, in Zambia, a declaration of principles for the implementation of an inter-Congolese dialogue, and commended the efforts of the Security Council to end the occupation of the country.

12. The Ministry of Social Affairs was fully dedicated to the implementation of the Convention; it believed that, with the help of social partners and parents, it would be able to guarantee to Congolese children the exercise of their basic rights.

13. The CHAIRPERSON said that the situation described by the delegation was indeed a sad one. Although the Committee could not resolve the many problems of the Democratic Republic of the Congo, it would attempt to assist the country in addressing them.

14. Ms. OUEDRAOGO observed that the report had been submitted extremely late. Following its submission, in 1997, a profound change had occurred in the country, which had included the change of name from Zaire to the Democratic Republic of the Congo. The original submission had been updated, and a second part added. The two parts were, however, presented in different manners. By and large, the report followed the Committee's reporting guidelines. Most requested information was included, although not always in the appropriate location. The report endeavoured to be analytical, frank and objective, to acknowledge failures to implement the Convention, and at times to justify them. However, it failed sufficiently to clarify certain points, including the impact of the conflict on children, the situation of the children of ethnic minorities and female genital mutilation. It sought to link the situation of children in that country to changes occurring throughout the broader African society. In general, it tended to defend traditional practices, and underemphasized the need for attitudinal change. Although some statistics had been provided, not all were disaggregated, and not all the areas significant to children were covered.

15. The Democratic Republic of the Congo had experienced a long economic crisis, with severe inflation, a heavy external debt, a depreciation of the national currency, and a decrease in public funds. The sectors most affected had been health, education and the protection of children. The realm of law had deteriorated, marked by a failure to enforce existing legislation and a lack of legal reforms.

16. Aware of current conditions in the Democratic Republic of the Congo, the Committee preferred to proceed on the supposition that the peace negotiations would prove successful, and with the understanding that the structure of society must be entirely rebuilt. It would be useful to know how the Convention was disseminated to the various strata of society, and what steps had been taken to bring the Labour Code, the Family Code, the Criminal Code, the Code of Criminal Procedure, the Civil Code and the Decree of 6 December 1950 regarding juvenile delinquency into conformity with the Convention. Although the presidential decree of June 2000 on the demobilization of child soldiers was commendable, she would like more information on the

situation of demobilized children. In addition, it would be helpful to know where the Democratic Republic of the Congo stood in the process of acceding to the two optional protocols to the Geneva Convention of 1949, which it had commenced and subsequently interrupted.

17. She would also like to know whether the Ministry of Human Rights was active at the local level, whether and to what extent it worked with the Ministry of Social Affairs on questions related to children, and what role was played by those Ministries in the protection of children. It would be helpful to know what additional tasks fell to the National Council for Children, which was responsible for preparing the report. Information would also be useful on the ways in which the National Council for Children and the National Committee on Children worked together, and how those bodies coordinated their activities at the local level. Finally, she welcomed the establishment of the General Commission on Reintegration, and requested further information about its role.

18. Mr. AL-SHEDDI said that the report and other information sources revealed a significant failure to put the provisions of the Convention into practice in the Democratic Republic of the Congo. Apparently, only 1 per cent of the national budget was devoted to education, yet experience had shown that investment in education brought about improvements in the protection of all other rights. He had been distressed to learn that young children were recruited into the army, a practice that must urgently be stopped.

19. Ms. AL-THANI asked whether the Government intended to amend the Family Code to correct the discrepancy between the legal marriageable ages of girls and boys, which were 15 and 18 respectively. She would also like to learn more about reports of discrimination against Tutsis. She expressed concern that in spite of the legislation in force which set the minimum age for recruitment into the armed forces at 18, in practice many children were being recruited at an earlier age.

20. Mr. CITARELLA requested further information on the impact of the war on children. He asked whether any particular steps had been taken with a view to taking child soldiers out of the armed forces and assisting their reintegration into civil society. According to reports children as young as 15 years old were serving in the armed forces, in clear breach of the national legislation in force. What was the Government doing to prevent former child soldiers from becoming street children? He asked for further information regarding evidence of discrimination against girls and minorities.

21. Ms. CHUTIKUL said she would welcome details of the results of the deliberations of the Sub-Commission of judicial authorities on the reform of national law, particularly with regard to the protection of children, which she understood had met in 2000. Referring to the very low budgetary allocation for education and health, she requested a more complete breakdown of the national budget, with reference to individual ministries.

22. Ms. TIGERSTEDT-TÄHTELÄ said she would appreciate more information about the war. Precisely who were the parties involved, including both internal groups and foreign States, why had hostilities begun, and what was the likelihood of a peace process getting under way?

23. Referring to the shortage of resources for child protection and development, particularly in the areas of education, health, social affairs and human rights, she inquired whether the Government received any international aid in addition to that provided by UNICEF. Were other United Nations agencies involved in assistance programmes and what bilateral aid had been made available, for instance by the European Union?

24. The CHAIRPERSON asked how the Government saw its responsibilities with regard to the implementation of the rights of the child, as it appeared to leave or delegate most activities to others. The delegation should indicate how the Government intended to proceed in the coming years. There seemed to be a lack of effective cooperation between the Government and NGOs in the implementation of the Convention. Did the Government have any plans to foster closer links with NGOs?

25. What official channels were available for children to submit complaints regarding violations of their rights? With regard to the right to be heard and to participate actively in matters that concerned them, how were children involved in the legal process and in the running of schools?

26. Ms. OUEDRAOGO said that, while she welcomed the translation of the Convention into four languages, greater efforts seemed to be required to disseminate the Convention, in order to make children fully aware of their rights.

27. The Committee was concerned at the low age of criminal responsibility in civilian life, as well as by the absence of a minimum age limit to the application of military justice, which meant that children could be sentenced to life imprisonment or even capital punishment. She would appreciate the delegation's comments on reports that children as young as nine years old were being held in adult prisons, in clear breach of national law, and that four children had been sentenced to death under the military justice system. What plans did the Government have to prevent such situations from occurring in the future?

28. She would be interested to learn how children were able to participate in the work of the Provincial Councils for Children. In addition, how was the principle of the best interests of the child applied in the development of government programmes and policies? With regard to the right to life, survival and development, she understood that the continued existence of certain traditional practices had a negative impact on the development of some children. How did the Government intend to resolve that situation?

29. Referring to reports that United Nations personnel had experienced problems attempting to enter the occupied territories, she asked how the Government was working to ensure that children in those areas received the necessary assistance, in particular with regard to the coverage of vaccination programmes.

30. In view of evidence that pregnancies were frequently terminated and newborn children killed, she asked what the Government planned to do to prevent such acts.

The meeting was suspended at 11.30 a.m. and resumed at 11.45 a.m.

31. Ms. EBAMBA BOBOTO (Democratic Republic of the Congo), replying to questions concerning a shortage of details in the report, said that the report was intended to complete the information already provided in previous documents submitted to other human rights treaty monitoring bodies, taking into account the most recent developments in the country.

32. The concept of ethnic minorities could not be applied to the Democratic Republic of the Congo, which was home to more than 450 tribes. Discrimination that arose could not be attributed to the unfair treatment of ethnic minorities.

33. The child's best interests were taken into account for the implementation of educational and health policies. The National Council for Children and Provincial Councils had been established for that purpose.

34. Replying to questions concerning the situation of children in the occupied territories, she said that UNICEF had provided crucial assistance, by entering the territories to disseminate the Convention and by reporting to the National Council for Children on the situation it found there. The Government was working closely with United Nations agencies to provide vaccinations to children in those areas, and to conduct medical examinations where necessary. It was focusing its efforts on ensuring that children throughout the country enjoyed equal assistance from the central Government.

35. Mr. KAMBINGA SELE (Democratic Republic of the Congo) said that the severe decline in production occasioned by the war in his country had been compounded by the economic embargo. When the new Government had taken office, it had sought to renew economic and financial cooperation with the international community, especially the Bretton Woods institutions. But the war was still absorbing the bulk of national income and neither foreign nor local investors were keen to risk their money under those circumstances. The Government and the people had endured enormous sacrifices to protect the national territory and their calls for the restoration of peace were heartfelt. The Government was aware that education, health and other vital sectors were not being given the attention envisaged in its 1997 three-year plan. However, now that an end to the war was in sight, it hoped to remedy the situation and channel the requisite funds into those areas.

36. He assured the Committee that it was not the Government's policy to recruit children to serve in the armed forces. In the early days of the struggle against President Mobutu by the Alliance des forces démocratiques de libération du Congo (AFDL), many street children had become involved in militias. They had been demobilized when the national army had been established.

37. With regard to the allegation of discrimination against children of Tutsi origin, he stressed that there were 450 ethnic groups in the country and it was contrary to the Government's ethos and policy to discriminate against any group. Congolese children of Tutsi origin were treated in exactly the same way as other children.

38. He was unable to explain to the Committee why a war was still being waged in his country. Some of his fellow countrymen claimed to be fighting for greater democracy and freedom of expression, but that was just a sham. Even if they were sincere, it was better to negotiate a political solution than to take up arms. He had no idea why Rwanda, a former ally, was waging war against the Democratic Republic of the Congo. The Hutu militias that had lost the war in Rwanda and sought refuge in his country had themselves been the victims of a massacre by Rwandan troops in 1996 and 1997. The Rwandans had subsequently used the dissolution of their alliance with his country as an excuse to take over part of its territory and plunder its wealth.

39. Ms. EBAMBA BOBOTO (Democratic Republic of the Congo) said that the work of the Ministry of Human Rights on behalf of children did not overlap with that of the Ministry of Social Affairs. All activities affecting children were coordinated among the different ministries to ensure that they were complementary. An inter-ministerial committee had been set up, for example, to deal with the demobilization of child soldiers.

40. The General Commission on Reintegration had been established by the President to attend to the needs of persons displaced by war, including children. It had set up centres providing remedial education for children who had missed school owing to their displacement.

41. Ms. PUTSHU KALIMA (Democratic Republic of the Congo) said that a survey had been conducted by the Ministries of Justice, Social Affairs and Human Rights, with the assistance of NGOs, to determine the scale of tradition-based discrimination against girls in the country. A draft Decree increasing the age of majority of girls to 18 was currently awaiting the President's signature.

42. Ms. MODUA (Democratic Republic of the Congo) said that steps had been taken to bring a number of legal instruments into conformity with the Convention: the Labour Code, the Criminal Code, especially the provisions regarding abortion, the Jurisdiction Code and a number of decrees, particularly the 1950 Decree on delinquent children. Immediately after ratification, the National Committee on Children had worked with representatives of government agencies and NGOs to identify discrepancies between existing legislation and the provisions of the Convention.

43. Abortion was a difficult issue. The existing legislation prohibited the interruption of pregnancy under all circumstances and established a "desirable births" service to enable parents to regulate reproduction. A draft amendment to the legislation had recently been proposed. It sought both to protect family life and to take into account the best interests of the child.

44. The statutory age of recruitment into the armed forces was 18. Allegations of falsification of the age of younger children for the purposes of recruitment were entirely unfounded.

45. Ms. KENDA BAKAJIKA (Democratic Republic of the Congo) said that efforts to promote the rights of the child following ratification of the Convention had initially had little real impact because they had been somewhat unfocused. To remedy the situation, the Government had decided, in cooperation with civil society, religious denominations, NGOs and bilateral and

multilateral partners, to establish what had initially been known as the National Committee on Children and was now called the National Council for Children. It was an advisory body established in 1994 and comprised representatives of the Ministries of Education, Health, Human Rights, Justice, Labour, Social Affairs and Internal Affairs. Its membership also included NGOs, which worked in thematic groups and created networks covering all areas of interest to children. An action plan was drawn up each year with the support of the United Nations Children's Fund (UNICEF) and other partners in the light of an end-of-year review. Projects were designed and the need for reform was assessed. Work was under way on a separate legal code for the protection of children which would bring together provisions that were currently dispersed throughout a number of different instruments.

46. A programme had been developed to promote the participation of children themselves in the implementation of the Convention. The Ministry of Education had arranged that year for the establishment of schoolchildren's committees. Elected child delegates from individual schools established forums at the municipal, provincial and national level. The children planned to prepare a declaration based on their assessment of progress in the implementation of the Convention for submission to the United Nations General Assembly special session on children.

47. NGOs were assisting in the establishment of observatories to receive complaints from children whose rights were violated, including street children, abandoned children and orphans. Participation of children in schools was encouraged through the forums mentioned earlier. While the Government was aware of its responsibilities under the Convention and had established the bodies required for its implementation, the Provincial Councils for Children lacked the resources necessary for the implementation of many programmes. The Government was currently seeking assistance, in particular from UNICEF, the World Health Organization (WHO), the United States Agency for International Development (USAID), the Rotary Club and Save the Children, which had provided support in the past.

48. Ms. EBAMBA BOBOTO (Democratic Republic of the Congo) said that the number of children sentenced to death in the case raised by one of the Committee members was not four but five, and that on 17 May 2001 all five had received presidential pardons. United Nations personnel were authorized to travel throughout the national territory, including the eastern part.

49. Ms. OUEDRAOGO said that the information received by the Committee concerning the alleged enrolment of children in the military came from United Nations reports, and was unfortunately corroborated by other sources. While some child soldiers had been demobilized, others were apparently still serving in the armed forces. The Committee nonetheless welcomed the Government's stated commitment to refrain from the recruitment of children and hoped that it would lead to positive results. The recent presidential pardons of five minors who had been sentenced to death were also a welcome development. However, as the Committee had obtained information that same day on the four children reportedly facing death sentences, some doubt was cast as to whether the cases corresponded.

50. There was a very large number of refugees and internally displaced children in the country, and the Office of the United Nations High Commissioner for Refugees (UNHCR) reportedly lacked sufficient resources to care for them. What resources did the Government have

in order to meet their needs? There had been reports of security problems and the violation of children's rights in various camps, where UNHCR had been unable to provide schooling and health care. While the report recognized the need to establish infrastructures to care for internally displaced people, there was little indication of measures taken in that regard.

51. What was the Government's position concerning the possible ratification of the Optional Protocol on the involvement of children in armed conflict? Noting that problems had apparently arisen in enacting legislative amendments, she asked whether the legislation had been amended to prohibit recruitment into the military of persons under 18 years of age. While the law made it illegal to employ children under 14 years of age, and those under 16 were only allowed to take on light work with their parents' consent, the State's enforcement of those laws was lax, owing perhaps to the country's poor socio-economic situation. Many children worked in the informal sector. According to some reports, children were also employed in diamond extraction, which involved hazardous work. Notwithstanding the difficulties it faced, the State had a responsibility to take action against child labour. Had the Government requested assistance from the International Labour Organization (ILO)?

52. While the report acknowledged that sexual exploitation was a very real phenomenon which manifested itself in many ways, it provided no information on measures to deal with it. The receptiveness and understanding to which the report referred would not be enough to assist the victims of such practices. The Government should adopt legislation specifically to protect children from sexual exploitation and to ban the abduction, sale or traffic of children, and the legal age for marriage should be raised. The country required a comprehensive plan of action involving legislative and practical measures, including an awareness campaign, to combat sexual exploitation and abuse.

53. Ms. AL-THANI said that the High Commissioner for Human Rights had visited a camp in Kinshasa where women and children of the Tutsi minority were living under Government protection. There were also reports that Pygmies were discriminated against. If, as the delegation maintained, there was no discrimination in the country, why did the inhabitants of the camp require protection? She understood that the Government did not advocate a policy of discrimination, but it must recognize that discrimination existed in society.

54. Education would have to play a major role in overcoming sexual exploitation and abuse of children, as cultural factors were responsible for much of the problem. Some tribes reportedly held the belief that sexual intercourse with young girls was a salubrious practice. Were there any education or awareness campaigns aimed at eradicating such ideas?

55. Ms. CHUTIKUL expressed concern about the treatment of street children, who were considered offenders and were subjected to arbitrary arrest and police harassment. Such children were generally victims of circumstances, such as dysfunctional family structures, armed conflict or a lack of schooling. Because they were victims, they should be provided with social integration and rehabilitation programmes, including education and vocational training. What was the delegation's perception of the treatment of street children in the country?

56. The CHAIRPERSON, speaking as a member of the Committee, asked the delegation to describe the sources of funding, staff and NGO support for the national demobilization and reintegration office (BUNADER). Were demobilized child soldiers afforded any psychological assistance or social support? Were they reunited with their families or communities? The Committee would like to receive information on any efforts to bring to justice persons responsible for the recruitment of child soldiers, and would appreciate clarification concerning the possible prosecution of child soldiers for atrocities they might have committed. It was not clear whether the General Commission on Reintegration was already operational, and if so, what resources it had. The delegation should comment on the possibility of enlisting ILO support in an effort to combat child labour, and should clarify the Government's views on ways to assist children who were victims of social problems without treating them as juvenile offenders.

57. Mr. AL-SHABI, noting the high percentage of children who were not registered by the Government, asked whether the State party had any plans to encourage registration. He had heard reports that nationality was denied to certain groups which had not been established in the country prior to 1885. If that was the case, it would appear to be at variance with article 5 of the Convention.

58. Mr. CITARELLA expressed concern about the application of the death penalty. Notwithstanding a declared moratorium on executions in the country, in some cases involving children the death penalty could apparently still be applied, if ordered by a military court, for instance. Was that the case? While the law stipulated that children over 16 were criminally responsible and were treated as adults, there was an apparent lack of information concerning the cases of children under the age of 16, some of whom could be deemed to be criminally responsible. The delegation should clarify their status. Was it true that a minor could be sentenced to up to two months or more of pre-trial detention without facing a precise charge, simply by judicial order?

The meeting rose at 1.05 p.m.